

2007-016236

S.F.

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X  
4 MARK KAPITI,

5  
6 PLAINTIFF,

7 -against- Index No.:

8  
9 RAYMOND W. KELLY, in his official Capacity as COMMISSIONER of  
10 NEW YORK CITY POLICE DEPARTMENT, PROPERTY CLERK, NEW YORK  
11 CITY POLICE DEPARTMENT and THE CITY of NEW YORK,

12 DEFENDANTS.

13 -----X  
14 THE CITY OF NEW YORK,

15 THIRD-PARTY PLAINTIFF,

16 -against-

17 AMERICAN HONDA FINANCE CORPORATION d/b/a  
18 HONDA FINANCIAL SERVICES,

19 THIRD-PARTY DEFENDANT.

20 -----X

21 DATE: May 30, 2008

22 TIME: 11:10 a.m.

23 EXAMINATION BEFORE TRIAL of the Defendant,

24 AMERICAN HONDA FINANCE CORPORATION d/b/a HONDA FINANCIAL

25 SERVICES, by a Witness, TARA SCHOOLKRAFT, taken by the

Respective Parties, pursuant to a Court Order, held at the

office of MICHAEL A. CARDOZO ESQ., CORPORATION COUNSEL, 100

Church Street, New York, New York 10007, before a Notary

Public of the State of New York.

## SCHOOLKRAFT

1 referring to?

2 MR. ROSENBERG: You're pointing to the  
3 notary's date?

4 THE WITNESS: No, that's not -- the notary's  
5 date would be down here; it's cut off. This is the  
6 date that I signed May 30, 2006, correct, yes.

7 Q. Prior to signing this document, did you have any  
8 communications with anybody from the police department or  
9 anybody from the Property Clerk's Office?

10 MR. ROSENBERG: That's what I asked you to  
11 fix. You said prior. Fix the time period prior.  
12 Do you mean from the beginning of the word did she  
13 ever speak to the Property Clerk's Office or in  
14 connection with this and some date.

15 MR. HAZAN: Well, you keep cutting me off  
16 from my question.

17 MR. ROSENBERG: Well, I'm trying to help you  
18 phrase the question. Pick a date.

19 Q. Anytime in the world prior to this May 30th, did  
20 you speak to somebody at the Property Clerk's Office or the  
21 NYPD about signing this document as it relates to  
22 Mr. Kapiti's vehicle?

23 A. No, I personally did not.

24 Q. How did you come to learn that the City of New York  
25 or the NYPD may be interested in signing an agreement with

SCHOOL KRAFT

1 Honda related to Mr. Kapiti's vehicle?

2 A. It's been a policy and procedure that's been in  
3 place for many years at Honda Finance.

4 Q. So, do you automatically just sign and send these  
5 documents related to any vehicle that's seized by the City of  
6 New York?

7 A. That was provided to us by the City, which was then  
8 reviewed by our Counsel to make sure it's okay that we go  
9 forth and sign it.

10 Q. So, do you know who from the City provided it to  
11 you?

12 A. No, I don't.

13 Q. Do you know when somebody from the City provided it  
14 to you?

15 A. No, I do not.

16 Q. Do you know which Counsel from Honda it was  
17 provided to?

18 A. Scott Shay.

19 Q. How do you know that?

20 A. Because again, this has been in place many years.  
21 And when I was a Collector and as a Collection Supervisor, a  
22 Customer Account Supervisor, this has been in place, and  
23 Scott Shay has been in that of position since --

24 Q. So Scott Shay --

25 MR. KESSLER: Since when? You cut her off.

## SCHOOLCRAFT

1 A. I don't know exactly how long he's been at Honda  
2 Finance. But, since my 10 years at Honda Finance, he's been  
3 there and been an attorney for us.

4 Q. Do you know whether Scott Shay was sent this  
5 particular form or are you basing that on the fact that he  
6 normally, during the course of his business, receives these  
7 forms from the City?

8 A. I don't know if he received this particular form.

9 Q. So, as it relates to Mr. Kapiti's car, one of those  
10 forms was sent to an attorney at Honda; correct? And you  
11 stated that then that attorney reviewed the form?

12 A. He reviewed it years ago. I don't know if it's  
13 this particular form or if words have changed over the years.  
14 But prior to us putting a policy in place and making sure  
15 that we're signing documents properly, he reviews documents  
16 from the City, from the State, whoever it may be. So, this  
17 has been approved.

18 Q. Yeah, I understand. But by an attorney?

19 A. By an attorney.

20 Q. It wasn't you who approved this?

21 A. No.

22 Q. You don't know what actions that attorney did to  
23 review the form?

24 A. No, I don't.

25 Q. You don't know if changes over the years have been

SCHOOLKRAFT

1 made to the form?

2 A. No, I do not.

3 Q. You don't know what legal objections Honda may have  
4 had regarding the form?

5 A. No, I do not.

6 Q. You don't know about any negotiations, maybe  
7 between Honda and the City of New York regarding that form?

8 A. No, I do not.

9 Q. You had no involvement in any of that?

10 A. No, I did not.

11 Q. You referred to a policy and practice. When you  
12 refer to the policy and practice, are you referring to a  
13 policy and practice that Honda has?

14 MR. ROSENBERG: As opposed to who?

15 MR. HAZAN: I was just clarifying who it was.

16 I'm not sure who.

17 Q. Can you describe the policy and practice that  
18 you're referring to?

19 MR. ROSENBERG: Take him through the steps.

20 A. Sure. The letter is sent to us through the City  
21 stating that vehicle is in their possession for such and such  
22 reason. That's sorted through our mail department. It's  
23 given to a specific collector who manages this process. The  
24 collector contacts the City to verify that the vehicle is  
25 still in their possession. If the vehicle is still in their

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1 possession, documents such as this, the  
2 Hold-Harmless Letter, the No-Release Letter that was provided  
3 by the City to Honda Finance, will be printed out through our  
4 computer system on our letterhead; signed, notarized, and  
5 over-nighted to Crossland Group. Crossland then --

6 MR. HAZAN: Can you just read back what  
7 documents were signed and notarized?

8 (Whereupon, the referred to answer was read  
9 back by the Reporter.)

10 A. -- Crossland then takes the documents that we send  
11 them and goes to the City. I don't know exactly where they  
12 go, but if the vehicle is still in the possession of the  
13 City, Crossland fronts the fees that have been assessed to  
14 that vehicle during the impound and then takes possession of  
15 the car and brings it to their storage lot. It may take a  
16 couple of times for Crossland to go back and forth until the  
17 vehicle is taken in their possession. Sometimes it does  
18 happen.

19 Q. Would Crossland's activities be contained in  
20 Honda's computer system; how many times they went?

21 A. No, that would be in Crossland's computer system.

22 Q. The first thing, you said that a collector from  
23 Honda contacts the City?

24 A. Correct.

25 Q. In Mr. Kapiti's case, do you know who that

SCHOOLKRAFT

1 collector was?

2 A. I do not.

3 Q. It wasn't you; correct?

4 A. No, it was not.

5 Q. Are you aware of the conversation that the  
6 collector had? The content of the conversation that the  
7 collector had with whomever they contacted at the City?

8 A. No, I'm not aware.

9 Q. Were you aware of the content of that conversation?

10 A. No.

11 Q. Did you have any conversations with the collector  
12 about Mr. Kapiti's car?

13 A. I don't remember.

14 Q. Now, you just described a process that occurs as it  
15 relates to these agreements. Is that process what occurred  
16 in Mr. Kapiti's case?

17 A. Yes.

18 Q. That process is the policy and practice in place  
19 that you were referring to earlier?

20 A. Yes.

21 Q. Is it always the customer account supervisors that  
22 sign these agreements?

23 A. Yes.

24 Q. Before signing these agreements, was there any  
25 other paperwork that you had to review related to Mr.

SCHOOLKRAFT

1 Q. Can you review the document and tell me if  
2 everything contained in the document is truthful?

3 A. Number two states I was employed as a Customer  
4 Account Representative and I was a Customer Account  
5 Representative Supervisor.

6 Q. Number two?

7 MR. KESSLER: She's saying it says Customer  
8 Account Representative, when, at that time, she was  
9 a Customer Account Representative Supervisor.

10 THE WITNESS: Yes, this is true.

11 Q. Okay, I would like to direct your attention to  
12 paragraph number seven. The last sentence that states, "the  
13 City did not intend for Honda to protect them for violation  
14 of Mr. Kapiti's due process and civil rights," do you see  
15 that?

16 A. Yes.

17 Q. How do you know that?

18 A. I don't know that.

19 Q. Is that truthful?

20 A. Can you explain further, what you exactly mean.

21 Q. What did you mean by that?

22 A. I didn't write this.

23 Q. Did you sign the end of the document?

24 A. Yes, I did.

25 Q. Did you read it before you signed it?



SCHOOLKRAFT

1 A. Yes, I did.

2 Q. You signed a document not knowing what the contents  
3 meant?

4 A. I can't explain that.

5 Q. I would like to turn your attention to the first  
6 page of the document, where it says "Tara L. Schoolkraft,  
7 being duly sworn, deposes and says," do you see that?

8 A. Yes, I do.

9 Q. Do you understand what that means?

10 A. Yes.

11 Q. Can you tell me what your understanding of that is?

12 A. That this is true. As far as what I signed. But  
13 I'm saying, I can't explain what that statement means.

14 Q. So, in other words, you didn't make that statement?

15 A. I did not make that statement, no.

16 Q. Are there any other statements in this document  
17 that you did not make?

18 A. No.

19 Q. So, you made every statement in this document  
20 except that one?

21 A. I can't answer that.

22 Q. Why not?

23 A. Because, I'm just saying, I can't answer that last  
24 statement.

25 Q. I understand that you're saying you can't answer